

NUMBER:

84 - 141

IN THE SUPREME COURT  
OF THE  
UNITED STATES

Howard Scott, In derivative Action on behalf of  
LAVENDER HOUSE, INC., a public stock  
company, his wife Shirley and himself

Henry Yarbrough, In derivative Action on  
behalf of the public company, LAVENDER  
HOUSE, INC.

Howard L. Jenkins, In derivative Action on  
behalf of the public company, LAVENDER  
HOUSE, INC.

Oliver A. Darden, In derivative Action on  
behalf of the public company, LAVENDER  
HOUSE, INC.

Petitioners

vs.

Small Business Administration

Respondent

On Appeal from the United States Court of Appeals  
For the Third Circuit in Cases No. 83-1546 and 83-1572

REPLY BRIEF

Henry Yarbrough  
P.O. Box 27486  
6615 Blakemore Street  
Philadelphia, Pennsylvania 19150

Howard L. Jenkins  
827 South St. Bernard Street  
Philadelphia, Pennsylvania 19143

448

## DECLARATION

The undersigned petitioner being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code do here say:

That all the averments in the Petition for Writ of Certiorari are true and that the respondent in his Brief of Opposition has not denied any of them.

That the respondent would like to mislead this Honorable Court in believing the petitioners complaint pertains to Government Guaranteed Loans. But the principal complaint is the respondent's fraudulent misuse of stockholders monies. For in Condition No. 9, the respondents SBA Loan Agreement says "Net proceeds of the Company's public stock offering to be assigned to bank until this loan is fully paid." After the public stockholders money was delivered, the respondent misused these public funds. Henry Yarbrough having purchased 10,000 shares and Howard L. Jenkins having purchased 50 shares; both now ask that their public company, Lavender House, Inc be represented in Court in this Derivative Action.

Further, the respondent would have this Court believe that their attached MEMORANDUM of the District Court pertains to Yarbrough and Jenkins. If the Court will carefully note, the appended Memorandum pertains only to and about the Action of the layman Howard Scott and his pro se litigation.

There is nothing in this Memorandum pertaining to or giving references to Yarbrough or Jenkins; and Yarbrough is the principal movant who signed the complaint and who paid the filing cost. (Payment receipt is attached) The Memorandum is in gross error in not addressing the movants, the here petitioners Yarbrough & Jenkins. Yarbrough nor Jenkins have previously signed nor filed a complaint against the respondent.

In particular, petitioners ask this Court to decree that an *Ex Parte* trial in any court of the United States is unconstitutional.

## DECLARATION

The undersigned petitioners being hereby warned that without false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code do hereby say:

That all the statements in the Petition are true and that the respondent in no part of Opposition has not denied any of them.

That the respondent would like to mislead this Honorable Court in believing the petitioners' complaint pertains to Government's financial losses, but the principal complaint is the respondent's treatment of issues of stockholders' money. For in Condition No. 2, the respondent's 52A Loan Agreement says: "Net proceeds of the Company's public stock offering to be assigned a bank until this loan is fully paid." After the public stockholders' money was delivered, the respondent instead spent public funds. Henry Yarbrough having purchased 10,000 shares and Howard L. Jenkins having purchased 30 shares, both now ask that their public company, Lardner House, Inc. be represented in Court as the *Plaintiff* in this *Equitable Action*.

Further, the respondent would have this Court believe that their attached MEMORANDUM of the District Court pertains to Yarbrough and Jenkins. If the Court will carefully note the appended Memorandum pertains only to and about the Action of the layman Howard Scott and his two co-defendants.

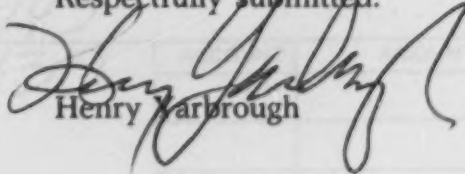
There is nothing in this Memorandum pertaining to or giving references to Yarbrough or Jenkins and Yarbrough is the principal movant who signed the complaint and who paid the filing cost. (Payment receipt is attached.) The Memorandum is in gross error in not addressing the movants, the here petitioners Yarbrough & Jenkins. Yarbrough and Jenkins have previously signed and filed a complaint against the respondent.

In particular, petitioners ask this Court to decree that an Ex Parte trial in any court of the United States is unconstitutional.

## CONCLUSION

The Questions of whether an *Ex Parte* Trial in a United States District Court is a violation of the absent party Due Process Constitutional right, and, whether stockholders have notification rights under Rule 23.1, FRCP, and whether a *lymans pro se* litigation is binding on un-notified absent parties have not at all been addressed or answered or denied in the Respondent's Brief in Opposition. Petitioners then Respectfully request of this Honorable Court that their Writ for Certiorari be granted.

Respectfully submitted.

  
Henry Warbrough

October 31, 1984

## CONCLUSION

The Question of whether an Ex Parte Tarrant is a United States District Court is a violation of the subject party that Process Constitutional right and whether such matters have notification rights under Rule 21, FRCP, and whether a system two as system is pending on unrelated special parties have not at all been submitted or answered or denied in the Respondent's brief in Opposition. Petitioner then respectfully request of the Honorable Court that their Writ for Constitutional be granted

Respectfully submitted,



Henry J. Harrison

October 31, 1984

AO 82  
(Rev. 8/80)

ORIGINAL  
RECEIPT FOR PAYMENT  
UNITED STATES DISTRICT COURT  
PENNSYLVANIA, EASTERN

8634

RECEIVED FROM

*Bill Savoy & Son*

8-143

430

Account Code

100 DEPOSIT FUND  
101 Trustee Fees  
102 Restitution  
200 REGISTRY FUND  
201 Cash Bail  
202 Land Condemnation  
GENERAL AND SPECIAL FUND  
310 Immigration Fees  
320 Attorney Admission Fee  
330 Filing Fees  
331 Civil Cases  
332 Writ of Habeas Corpus  
333 Appeals  
334 Bankruptcy Cases (Clerk's Fee)  
340 Sale of Publications  
350 Copy Fees  
360 Miscellaneous Fees  
380 Recoveries of Costs

FINES, PENALTIES AND FORFEITURES

410 Agricultural Laws  
420 Economic and Stabilization Laws  
430 Immigration and Labor Laws  
440 Customs, Commerce and Anti-Trust Laws  
450 Narcotics, Prohibition and Alcohol Laws  
460 Forfeitures of Unclaimed Money and Property  
470 Mining Enforcement and Safety Administration  
480 Internal Revenue Service (Criminal Fines)  
490 Collateral Forfeitures (CVB)  
500 Appearance Bond Forfeitures and  
Other Fines, Penalties or Forfeitures  
Not Otherwise Classified

ACCOUNT

AMOUNT

TOTAL

Case Number or Other Reference

831553 331 60.00 CC  
60.00 IL  
60.00 MOTO  
IA  
.00 CACE

111 1130 4/01/83

DATE / / 19 Cash Check M.O.

DEPUTY CLERK

*McB*

BEST AVAILABLE COPY